

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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BOLERO CORPORATION t/a BOLERO  
MOTEL & BLUE WATER GRILLE,

Plaintiff,

v.

LEXINGTON INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, Lexington Insurance Company (“Lexington”), hereby removes to the United States District Court for the District of New Jersey the case captioned Bolero Corporation t/a Bolero Motel & Blue Water Grille, Civil Action No. L–214-17, Superior Court of New Jersey Law Division: Cape May County, and, as grounds for removal states as follows:

1. On or about May 15, 2017, Bolero Corporation t/a Bolero Motel & Blue Water Grille (“Plaintiff”) instituted suit by filing a Complaint against Lexington in the Superior Court of New Jersey Law Division: Cape May County (Civil Action No. L–214-17). A copy of the Complaint is attached as Exhibit “A.”

2. On or after June 5, 2017, Plaintiff made service on the New Jersey Department of Banking and Insurance, authorized to accept service on behalf of Lexington. A copy of the cover letter to Lexington is attached as Exhibit “B.”

3. The basis for federal court jurisdiction is 28 U.S.C. §1332, diversity of citizenship, which provides, in relevant part, that federal district courts have original

jurisdiction of civil actions between citizens of different states where the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

4. 28 U.S.C. § 1441(a) provides that: “any civil action brought in a state court of which the district courts of the United States have original jurisdiction, may be removed by the defendant... to the district court of the United States for the district and division embracing the place where such action is pending.” The District Court of New Jersey embraces Hudson County.

5. 28 U.S.C. § 1446(b) provides for removal to be made within 30 days following receipt of the initial pleading.

6. This Notice is being filed within 30 days of receipt of the Complaint, Exhibit “A,” which was filed and served upon Lexington on June 5, 2017, as provided by 28 U.S.C. § 1446(b).

7. Upon information and belief, Plaintiff was and is a New Jersey corporation with its principal place of business in Wildwood, New Jersey.

8. Lexington is, and was at the time the Complaint was filed in New Jersey state court, a Delaware corporation with its principal place of business in Boston, Massachusetts.

9. Plaintiff seeks damages in excess of the jurisdictional minimum set forth in 28 U.S.C. § 1332. See Exhibit A, ¶ 16.

11. Pursuant to the requirements of 28 U.S.C. §1446(a), Lexington has attached a copy of all process, pleadings and orders served on it.

12. Pursuant to the requirements of 28 U.S.C. §1446(d), Lexington shall provide a copy of the Notice of Removal to Plaintiff and will file a certified copy of this

Notice with the Clerk of Courts of the Superior Court of New Jersey Law Division: Cape May County.

13. Removal of Plaintiff's case to the United States District Court for the District of New Jersey is permitted under the circumstances of this case because all parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

WHEREFORE, Defendant, Lexington Insurance Company, prays that this action, Bolero Corporation t/a Bolero Motel & Blue Water Grille, Civil Action No. L-214-17, Superior Court of New Jersey Law Division: Cape May County, be removed to the United States District Court for the District of New Jersey.

BUTLER WEIHMULLER KATZ CRAIG LLP

s/Richard D. Gable, Jr.

RICHARD D. GABLE, JR., ESQ.

[rgable@butler.legal](mailto:rgable@butler.legal)

MICHAEL J. McLAUGHLIN, ESQ.

[mmclaughlin@butler.legal](mailto:mmclaughlin@butler.legal)

1818 Market Street, Suite 2740

Philadelphia, PA 19103

Telephone: (215) 405-9191

Facsimile: (215) 405-9190

*Attorneys for Defendant,*

*Lexington Fire Insurance Company*

Dated: June 23, 2017

**CERTIFICATE OF SERVICE**

I, Richard D. Gable, Jr., hereby certify that a true and correct copy of the foregoing Notice of Removal has been served on the following counsel of record via the Court's electronic filing system, on this 23<sup>rd</sup> day of June, 2017:

Frank P. Winston, Esq.  
Lerner, Arnold & Winston, LLP  
475 Park Avenue South, 28th Floor  
New York, NY 10016  
*Attorney for the Plaintiff*

s/Richard D. Gable, Jr.  
RICHARD D. GABLE, JR., ESQ.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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SUMO ENTERPRISES, INC.

Plaintiff,

v.

LEXINGTON FIRE INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. \_\_\_\_\_

**PROOF OF FILING**

I, Richard D. Gable, Jr., hereby certify that a copy of the foregoing Notice of Removal will be filed with the Clerk of the Superior Court of New Jersey immediately upon receipt of the certified copy from the United States District Court for the District of New Jersey.

BUTLER WEIHMULLER KATZ CRAIG LLP

s/Richard D. Gable, Jr. \_\_\_\_\_

RICHARD D. GABLE, JR., ESQ.

[rgable@butler.legal](mailto:rgable@butler.legal)

MICHAEL McLAUGHLIN, ESQ.

[mmclaughlin@butler.legal](mailto:mmclaughlin@butler.legal)

1818 Market Street, Suite 2740

Philadelphia, PA 19103

Telephone: (215) 405-9191

Facsimile: (215) 405-9190

*Attorneys for Defendant,*

*Lexington Fire Insurance Company*

Dated: June 23, 2017

# **EXHIBIT A**

LERNER, ARNOLD & WINSTON, LLP  
Attorneys-At-Law  
By: Frank P. Winston, Esq.  
Attorney ID No.: 011522004  
475 Park Avenue South, 28<sup>th</sup> Floor  
New York, New York 10016  
(212) 686-4655  
Attorneys for Plaintiff

**FILED**

**MAY 16 2017**

CIVIL DIVISION  
SUPERIOR COURT - CAPE MAY COUNTY

BOLERO CORPORATION t/a BOLERO  
MOTEL & BLUE WATER GRILLE,

Plaintiff,

-against-

LEXINGTON INSURANCE COMPANY,

Defendant.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION:  
CAPE MAY COUNTY

DOCKET NO.: *CPM-L-214-17*

CIVIL ACTION

**COMPLAINT AND  
JURY TRIAL DEMAND**

The Plaintiff Bolero Corporation t/a Bolero Motel, by and through its attorneys Lerner, Arnold & Winston, LLP, as and for its Complaint and Jury Trial Demand, respectfully alleges upon information and belief as follows:

**PARTIES AND JURISDICTION**

1. At all times hereinafter mentioned, the Plaintiff Bolero Corporation t/a Bolero Motel & Blue Water Grille (hereinafter "Plaintiff"), was and still is a domestic corporation organized and existing under and by virtue of the laws of the State of New Jersey.

2. At all times hereinafter mentioned, the Defendant Lexington Insurance Company (hereinafter "Defendant") was and still is a foreign insurance entity domiciled in the State of Massachusetts.

3. At all times hereinafter mentioned, the Defendant was and still is authorized by the New Jersey Department of Banking and Insurance to issue policies of insurance within the

State of New Jersey.

4. At all times hereinafter mentioned, the Defendant did and still does transact business within the State of New Jersey, including but not limited to the issuance of insurance policies within the State of New Jersey.

**VENUE**

5. Atlantic/Cape May Vicinage is an appropriate venue for this action pursuant to N.J. Court Rules, Rule 4:3-2(a)(3), in that Plaintiff's cause of action arose in Cape May County. In particular, the Plaintiff's property that is the subject of this action is located at 3320 Atlantic Avenue Wildwood, New Jersey 08260.

**BACKGROUND FACTS AND PLAINTIFF'S CAUSE OF ACTION FOR  
BREACH OF CONTRACT AGAINST THE DEFENDANT**

6. Prior to January 23, 2016, for good and valuable consideration, the Defendant issued to the Plaintiff a policy of insurance, bearing policy number "41-LX-019906121-2/000." (hereinafter referred to as the subject "insurance policy").

7. The Plaintiff is a named insured within the subject insurance policy.

8. The subject insurance policy insured the subject premises against all risks of loss.

9. The subject insurance policy maintained effective dates of coverage from June 1, 2015 to June 1, 2016.

10. At all times hereinafter mentioned, the Plaintiff maintained an insurable interest via the subject insurance policy.

11. On and around January 23, 2016, the subject insurance policy afforded the Plaintiff with certain insurance coverage.

12. On and around January 23, 2016, the subject insurance policy was in full force and effect.



13. On and around January 23, 2016, while the subject insurance policy was in full force and effect, the Plaintiff's property was damaged as a result of a covered cause of loss.

14. Subsequent to January 23, 2016, and pursuant to the terms of the subject insurance policy, the Plaintiff submitted an insurance claim to the Defendant seeking to be indemnified for the full amount of covered damages to the damaged property.

15. Subsequent to the Plaintiff's submission of its insurance claim, the Defendant wrongfully denied partial of the Plaintiff's insurance claim.

16. The Defendant has wrongfully failed to indemnify the Plaintiff for \$140,315.91 of the damages to the damaged property as a result of the January 23, 2016 loss, despite the fact the same has been duly demanded.

17. The Defendant's wrongful denial of the Plaintiff's insurance claim constitutes a breach of contract.

18. The Defendant's wrongful failure to fully indemnify the Plaintiff for the damaged property as a result of the January 23, 2016 loss constitutes a breach of contract.

19. The Plaintiff has complied with and shall continue to comply with all of the terms and conditions of the subject insurance policy.

20. The Plaintiff has submitted sufficient and reasonable proof in support of its insurance claim.

21. As a result of the Defendant's above mentioned breach of contract, the Plaintiff has been damaged in an amount to be determined by a Cape May County Jury.

WHEREFORE, the Plaintiff demands judgment on its Cause of Action against the Defendant for:

- a) Plaintiff's property damages together with lawful interest;

- b) Compensatory damages together with lawful interest;
- c) Consequential damages together with lawful interest;
- d) Costs of suit and reasonable attorneys' fees; and
- e) For such other and further relief as this Court deems just and proper.

**JURY DEMAND**

The Plaintiff, pursuant to New Jersey Civil Rule 4:35-1, hereby demands a trial by jury as to all issues.

**DESIGNATION OF TRIAL COUNSEL**

Frank P. Winston, Esq., of the law firm Lerner, Arnold & Winston, LLP, is hereby designated as trial counsel for the Plaintiff in the within action.



Frank Winston

Dated: May 15, 2017

**CERTIFICATION**

Pursuant to the requirements of New Jersey Civil Rule 4:5-1 (Notice of Other Actions), I, the undersigned, do hereby certify, to the best of my knowledge, information and belief, that, except as hereinafter indicated, the subject of the controversy referred to in the within pleading is not the subject of any other cause of action, pending in any other Court, or of a pending arbitration proceeding, nor is any other cause of action, arbitration proceeding contemplated:

1. OTHER ACTIONS PENDING? . . . Yes \_\_\_ No X

a. If Yes – Parties to other pending actions (see attachment).

b. In my opinion, the following parties should be joined in the within pending cause of action (see attachment).

2. OTHER ACTIONS CONTEMPLATED? . . . Yes \_\_\_ No X

If Yes - Parties contemplated to be joined in other causes of action (see attachment).

3. ARBITRATION PROCEEDINGS PENDING? . . . Yes \_\_\_ No X

a. If Yes - Parties to arbitration proceedings (see attachment).

b. In my opinion, the following parties should be joined in the pending arbitration proceedings (see attachment).



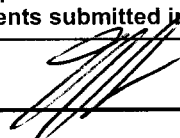
4. OTHER ARBITRATION PROCEEDINGS CONTEMPLATED? . . . Yes \_\_\_ No X

If Yes - Parties contemplated to be joined to arbitration proceedings (see attachment). In the event that during the pending of the within cause of action, I shall become aware of any change as to any facts stated herein, I shall file an Amended Certification, and serve a copy thereof on all other parties (or their attorneys) who have appeared in said cause of action.

Dated: May 15, 2017

  
Frank Winston

**Appendix XII-B1**

	<b>CIVIL CASE INFORMATION STATEMENT (CIS)</b>  Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1 <b>Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed</b>		FOR USE BY CLERK'S OFFICE ONLY	
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	
			CHG/CK NO.	
			AMOUNT:	
			OVERPAYMENT:	
		BATCH NUMBER:		
ATTORNEY / PRO SE NAME Frank Winston		TELEPHONE NUMBER (212) 686-4655		COUNTY OF VENUE Cape May <input checked="" type="checkbox"/>
FIRM NAME (if applicable) Lerner, Arnold and Winston, LLP		DOCKET NUMBER (when available) <i>CPM-L-214-17</i>		
OFFICE ADDRESS 475 Park Avenue South New York, New York 10016		DOCUMENT TYPE Complaint and Jury Trial Demand		
		JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Bolero Corporation t/a Bolero Motel and Blue Water Grille		CAPTION Bolero Corporation t/a Bolero Motel and Blue Water Grille v. Lexington Insurance Company		
CASE TYPE NUMBER (See reverse side for listing) 599	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN		
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input checked="" type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b).				
ATTORNEY SIGNATURE: 				

Side 2



# CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1***CASE TYPES** (Choose one and enter number of case type in appropriate space on the reverse side.)**Track I - 150 days' discovery**

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

**Track II - 300 days' discovery**

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

**Track III - 450 days' discovery**

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

**Track IV - Active Case Management by Individual Judge / 450 days' discovery**

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

**Multicounty Litigation (Track IV)**

- |  |   |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN                  | 292 PELVIC MESH/BARD                                      |
| 274 RISPERDAL/SEROQUEL/ZYPREXA             | 293 DEPUY ASR HIP IMPLANT LITIGATION                      |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL     | 295 ALLODERM REGENERATIVE TISSUE MATRIX                   |
| 282 FOSAMAX                                | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS           | 297 MIRENA CONTRACEPTIVE DEVICE                           |
| 286 LEVAQUIN                               | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR              |
| 287 YAZ/YASMIN/OCELLA                      | 300 TALC-BASED BODY POWDERS                               |
| 289 REGLAN                                 | 601 ASBESTOS  |
| 290 POMPTON LAKES ENVIRONMENTAL LITIGATION | 623 PROPECIA  |
| 291 PELVIC MESH/GYNECARE                   |   |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59

# **EXHIBIT B**



**State of New Jersey**  
DEPARTMENT OF BANKING AND INSURANCE  
OFFICE OF THE COMMISSIONER  
PO Box 325  
TRENTON, NJ 08625-0325

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

AIG Property Casualty  
Claims Legal

JUN 13 2017

RECEIVED

RICHARD J. BADOLATO  
Commissioner

TEL (609) 292-7272

**\*CORRECTED COVER LETTER\***

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

June 5, 2017

RECEIVED  
JUN 12 2017  
LEGAL DEPARTMENT

Attention: Corporate Secretary  
Lexington Insurance Company  
Legal Department, 18<sup>th</sup> Floor  
100 Summer Street  
Boston, MA 02110-2103

RE: Bolero Corporation t/a Bolero Motel & Blue Water Grille v. Lexington Insurance Company  
Superior Court of New Jersey, Cape May County Law Division  
Docket No.: L-214-17

Dear Sir/Madam:

You are hereby notified that on this date the Commissioner of the New Jersey Department of Banking and Insurance has accepted original service of process on your behalf in the above-captioned matter. A copy of the Order, Summons and Complaint are enclosed herein.

By copy of this letter I am advising the Attorney for the Plaintiff(s) in this matter and certifying with the Clerk of the Court that the Order, Summons and Complaint have been transmitted to you, and confirming that the Commissioner of Banking and Insurance is not authorized to receive service of any further documents in this action.

Very truly yours,

Debbie Mullen  
Administrative Assistant

19437-152/INOSP

C: Frank P. Winston, Esq.  
Lerner, Arnold & Winston, LLP  
475 Park Avenue South, 28<sup>th</sup> Floor  
New York, NY 10016

Clerk of the Superior Court, Cape May County

LERNER, ARNOLD & WINSTON, LLP  
Attorneys-At-Law  
By: Frank P. Winston, Esq.  
Attorney ID No.: 011522004  
475 Park Avenue South, 28<sup>th</sup> Floor  
New York, New York 10016  
(212) 686-4655  
Attorneys for Plaintiff

**FILED**

**MAY 16 2017**

CIVIL DIVISION  
SUPERIOR COURT, CAPE MAY COUNTY

BOLERO CORPORATION t/a BOLERO  
MOTEL & BLUE WATER GRILLE,

Plaintiff,

-against-

LEXINGTON INSURANCE COMPANY,

Defendant.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION:  
CAPE MAY COUNTY

DOCKET NO.: *CPM-L-214-17*

CIVIL ACTION

**COMPLAINT AND  
JURY TRIAL DEMAND**

The Plaintiff Bolero Corporation t/a Bolero Motel, by and through its attorneys Lerner, Arnold & Winston, LLP, as and for its Complaint and Jury Trial Demand, respectfully alleges upon information and belief as follows:

**PARTIES AND JURISDICTION**

1. At all times hereinafter mentioned, the Plaintiff Bolero Corporation t/a Bolero Motel & Blue Water Grille (hereinafter "Plaintiff"), was and still is a domestic corporation organized and existing under and by virtue of the laws of the State of New Jersey.

2. At all times hereinafter mentioned, the Defendant Lexington Insurance Company (hereinafter "Defendant") was and still is a foreign insurance entity domiciled in the State of Massachusetts.

3. At all times hereinafter mentioned, the Defendant was and still is authorized by the New Jersey Department of Banking and Insurance to issue policies of insurance within the



State of New Jersey.

4. At all times hereinafter mentioned, the Defendant did and still does transact business within the State of New Jersey, including but not limited to the issuance of insurance policies within the State of New Jersey.

**VENUE**

5. Atlantic/Cape May Vicinage is an appropriate venue for this action pursuant to N.J. Court Rules, Rule 4:3-2(a)(3), in that Plaintiff's cause of action arose in Cape May County. In particular, the Plaintiff's property that is the subject of this action is located at 3320 Atlantic Avenue Wildwood, New Jersey 08260.

**BACKGROUND FACTS AND PLAINTIFF'S CAUSE OF ACTION FOR  
BREACH OF CONTRACT AGAINST THE DEFENDANT**

6. Prior to January 23, 2016, for good and valuable consideration, the Defendant issued to the Plaintiff a policy of insurance, bearing policy number "41-LX-019906121-2/000." (hereinafter referred to as the subject "insurance policy").

7. The Plaintiff is a named insured within the subject insurance policy.

8. The subject insurance policy insured the subject premises against all risks of loss.

9. The subject insurance policy maintained effective dates of coverage from June 1, 2015 to June 1, 2016.

10. At all times hereinafter mentioned, the Plaintiff maintained an insurable interest via the subject insurance policy.

11. On and around January 23, 2016, the subject insurance policy afforded the Plaintiff with certain insurance coverage.

12. On and around January 23, 2016, the subject insurance policy was in full force and effect.

13. On and around January 23, 2016, while the subject insurance policy was in full force and effect, the Plaintiff's property was damaged as a result of a covered cause of loss.

14. Subsequent to January 23, 2016, and pursuant to the terms of the subject insurance policy, the Plaintiff submitted an insurance claim to the Defendant seeking to be indemnified for the full amount of covered damages to the damaged property.

15. Subsequent to the Plaintiff's submission of its insurance claim, the Defendant wrongfully denied partial of the Plaintiff's insurance claim.

16. The Defendant has wrongfully failed to indemnify the Plaintiff for \$140,315.91 of the damages to the damaged property as a result of the January 23, 2016 loss, despite the fact the same has been duly demanded.

17. The Defendant's wrongful denial of the Plaintiff's insurance claim constitutes a breach of contract.

18. The Defendant's wrongful failure to fully indemnify the Plaintiff for the damaged property as a result of the January 23, 2016 loss constitutes a breach of contract.

19. The Plaintiff has complied with and shall continue to comply with all of the terms and conditions of the subject insurance policy.

20. The Plaintiff has submitted sufficient and reasonable proof in support of its insurance claim.

21. As a result of the Defendant's above mentioned breach of contract, the Plaintiff has been damaged in an amount to be determined by a Cape May County Jury.

WHEREFORE, the Plaintiff demands judgment on its Cause of Action against the Defendant for:

- a) Plaintiff's property damages together with lawful interest;

- b) Compensatory damages together with lawful interest;
- c) Consequential damages together with lawful interest;
- d) Costs of suit and reasonable attorneys' fees; and
- e) For such other and further relief as this Court deems just and proper.

**JURY DEMAND**

The Plaintiff, pursuant to New Jersey Civil Rule 4:35-1, hereby demands a trial by jury as to all issues.

**DESIGNATION OF TRIAL COUNSEL**

Frank P. Winston, Esq., of the law firm Lerner, Arnold & Winston, LLP, is hereby designated as trial counsel for the Plaintiff in the within action.



\_\_\_\_\_  
Frank Winston

Dated: May 15, 2017

**CERTIFICATION**

Pursuant to the requirements of New Jersey Civil Rule 4:5-1 (Notice of Other Actions), I, the undersigned, do hereby certify, to the best of my knowledge, information and belief, that, except as hereinafter indicated, the subject of the controversy referred to in the within pleading is not the subject of any other cause of action, pending in any other Court, or of a pending arbitration proceeding, nor is any other cause of action, arbitration proceeding contemplated:

1. OTHER ACTIONS PENDING? . . . Yes \_\_\_ No X

a. If Yes – Parties to other pending actions (see attachment).

b. In my opinion, the following parties should be joined in the within pending cause of action (see attachment).

2. OTHER ACTIONS CONTEMPLATED? . . . Yes \_\_\_ No X

If Yes - Parties contemplated to be joined in other causes of action (see attachment).

3. ARBITRATION PROCEEDINGS PENDING? . . . Yes \_\_\_ No X

a. If Yes - Parties to arbitration proceedings (see attachment).

b. In my opinion, the following parties should be joined in the pending arbitration proceedings (see attachment).



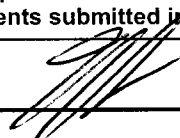
4. OTHER ARBITRATION PROCEEDINGS CONTEMPLATED? . . . Yes \_\_\_ No X

If Yes - Parties contemplated to be joined to arbitration proceedings (see attachment). In the event that during the pending of the within cause of action, I shall become aware of any change as to any facts stated herein, I shall file an Amended Certification, and serve a copy thereof on all other parties (or their attorneys) who have appeared in said cause of action.

Dated: May 15, 2017

  
\_\_\_\_\_  
Frank Winston

Appendix XII-B1

	<b>CIVIL CASE INFORMATION STATEMENT (CIS)</b>  Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1 <b>Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed</b>		FOR USE BY CLERK'S OFFICE ONLY	
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	
			CHG/CK NO.	
			AMOUNT:	
			OVERPAYMENT:	
		BATCH NUMBER:		
ATTORNEY / PRO SE NAME Frank Winston		TELEPHONE NUMBER (212) 686-4655		COUNTY OF VENUE Cape May <input checked="" type="checkbox"/>
FIRM NAME (if applicable) Lerner, Arnold and Winston, LLP		DOCKET NUMBER (when available) <i>CPM-L-214-17</i>		
OFFICE ADDRESS 475 Park Avenue South New York, New York 10016		DOCUMENT TYPE Complaint and Jury Trial Demand		
		JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Bolero Corporation t/a Bolero Motel and Blue Water Grille		CAPTION Bolero Corporation t/a Bolero Motel and Blue Water Grille v. Lexington Insurance Company		
CASE TYPE NUMBER (See reverse side for listing) 599	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN		
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input checked="" type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b).				
ATTORNEY SIGNATURE: 				

Side 2



# CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

## CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

### Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

### Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

### Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

### Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

### Multicounty Litigation (Track IV)

- |  |   |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN                  | 292 PELVIC MESH/BARD                                      |
| 274 RISPERDAL/SEROQUEL/ZYPREXA             | 293 DEPUY ASR HIP IMPLANT LITIGATION                      |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL     | 295 ALLODERM REGENERATIVE TISSUE MATRIX                   |
| 282 FOSAMAX                                | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS           | 297 MIRENA CONTRACEPTIVE DEVICE                           |
| 286 LEVAQUIN                               | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR              |
| 287 YAZ/YASMIN/OCELLA                      | 300 TALC-BASED BODY POWDERS                               |
| 289 REGLAN                                 | 601 ASBESTOS  |
| 290 POMPTON LAKES ENVIRONMENTAL LITIGATION | 623 PROPECIA  |
| 291 PELVIC MESH/GYNECARE                   |   |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59



**State of New Jersey**  
DEPARTMENT OF BANKING AND INSURANCE  
OFFICE OF THE COMMISSIONER  
PO Box 325  
TRENTON, NJ 08625-0325

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

AIG Property Casualty  
Claims Legal

JUN 13 2017

RECEIVED

RICHARD J. BADOLATO  
Commissioner

TEL (609) 292-7272

**\*CORRECTED COVER LETTER\***

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

June 5, 2017

RECEIVED  
JUN 12 2017  
LEGAL DEPARTMENT

Attention: Corporate Secretary  
Lexington Insurance Company  
Legal Department, 18<sup>th</sup> Floor  
100 Summer Street  
Boston, MA 02110-2103

RE: Bolero Corporation t/a Bolero Motel & Blue Water Grille v. Lexington Insurance Company  
Superior Court of New Jersey, Cape May County Law Division  
Docket No.: L-214-17

Dear Sir/Madam:

You are hereby notified that on this date the Commissioner of the New Jersey Department of Banking and Insurance has accepted original service of process on your behalf in the above-captioned matter. A copy of the Order, Summons and Complaint are enclosed herein.

By copy of this letter I am advising the Attorney for the Plaintiff(s) in this matter and certifying with the Clerk of the Court that the Order, Summons and Complaint have been transmitted to you, and confirming that the Commissioner of Banking and Insurance is not authorized to receive service of any further documents in this action.

Very truly yours,

Debbie Mullen  
Administrative Assistant

19437-152/INOSP

C: Frank P. Winston, Esq.  
Lerner, Arnold & Winston, LLP  
475 Park Avenue South, 28<sup>th</sup> Floor  
New York, NY 10016

Clerk of the Superior Court, Cape May County